

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1235

Introduced by Assembly Member Gipson

February 27, 2015

An act to add Section 14005.125 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1235, as amended, Gipson. Medi-Cal: beneficiary maintenance needs: home upkeep ~~allowance~~. *allowances and transitional personal needs funds*.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Qualified individuals under the Medi-Cal program include medically needy persons and medically needy family persons who meet the required eligibility criteria, including applicable income requirements.

Existing law requires the department to establish income levels for maintenance need at the lowest levels that reasonably permit a medically needy individual to meet his or her basic needs for food, clothing, and shelter, and for which federal financial participation will still be provided under applicable federal law. In calculating the income of a medically needy individual in a medical institution or nursing facility, or a person

receiving institutional or noninstitutional services from a Program of All-Inclusive Care for the Elderly organization, the required monthly maintenance amount includes, among other things, an amount providing for the upkeep and maintenance of the individual's home. This amount is also referred to as the home upkeep allowance.

Existing law requires that the maintenance of need amount provide for personal and incidental needs in an amount not less than \$35 for a person in a medical institution or nursing facility, or for a person receiving institutional or noninstitutional services from a Program of All-Inclusive Care for the Elderly organization.

Existing law authorizes the Director of Health Care Services to adopt, amend, or repeal reasonable rules and regulations to carry out the purposes and intent of the Medi-Cal program, that are not inconsistent with any state statute. The department has adopted regulatory requirements relating to the determination of the home upkeep allowance described above.

This bill would establish eligibility and other requirements for providing the home upkeep allowance *or transitional personal needs fund*, to ~~a Medi-Cal patient~~ *patients* residing in a long-term care facility ~~facility, as specified~~. The bill would prescribe general requirements as well as specific requirements both for facility residents who intend to leave the facility and return to an existing home, *who would receive the home upkeep allowance*, and residents who intend to leave the facility and establish a new home, *who would establish a transitional personal needs fund, as part of the personal needs allowance provided to the resident*. The bill would require the department to adopt ~~conforming regulations~~ *implementing regulations*, and to advise appropriate ~~Medi-Cal patients~~ *long-term care facility residents and other specified personnel and health care facilities* of the existence and availability of the home upkeep allowance *and transitional personal needs fund*. Because counties are required to make Medi-Cal eligibility determinations and this bill would impose new eligibility requirements for purposes of the home upkeep allowance, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14005.125 is added to the Welfare and
2 Institutions Code, to read:
3 14005.125. (a) For purposes of this section, “home upkeep
4 allowance” means the “allowance for home maintenance”
5 described in Section 435.725 (d) of Title 42 of the Code of Federal
6 Regulations and the amount for the “upkeep and maintenance of
7 the home,” described in paragraph (2) of subdivision (d) of Section
8 14005.12.
9 (1) The home upkeep allowance shall be available to long-term
10 care recipients who are Medi-Cal recipients and meet the
11 requirements of this section.
12 (2) In accordance with Section 435.725 (c)(1) of Title 42 of the
13 Code of Federal Regulations and paragraph (1) of subdivision (d)
14 of Section 14005.12, a transitional personal needs fund shall be
15 available to long-term care recipients described in this section.
16 (b) A long-term care facility resident who intends to leave the
17 facility and return to his or her existing home shall be provided
18 with a home upkeep allowance as follows:
19 (1) The allowance shall be set aside from the income that
20 otherwise would be applied toward the resident’s Medi-Cal share
21 of cost for residing in the facility.
22 (2) The allowance shall be based on the actual minimum cost
23 of maintaining the resident’s home, including, but not limited to,
24 mortgage or rent, property taxes, and required insurance.
25 (3) The allowance shall be an exempt resource for purposes of
26 determining eligibility for the Medi-Cal program.
27 (4) The allowance shall be available only if a physician has
28 certified that the resident is likely to return to his or home within
29 six months.
30 (c) If a long-term care facility resident does not have a home,
31 but intends to leave the facility and establish a home in the
32 community, the transitional costs of establishing a home shall be
33 included in his or her personal needs allowance. The resident may

1 *establish a transitional personal needs fund for this purpose, as*
2 *follows:*

3 *(1) The fund shall be set aside from the income that otherwise*
4 *would be applied toward the resident's Medi-Cal share of cost for*
5 *residing in the facility.*

6 *(2) The total amount of the fund shall not exceed seven thousand*
7 *five hundred dollars (\$7,500).*

8 *(3) The fund shall be an exempt resource for purposes of*
9 *determining eligibility for the Medi-Cal program.*

10 *(4) The fund shall be used to cover the costs of securing a home*
11 *for the individual, including, but not limited to, rent, security and*
12 *utility deposits, accessibility modifications necessary to meet the*
13 *needs of the individual, and essential furnishings, including, but*
14 *not limited to, stoves, refrigerators, beds, towels, and bed linens.*

15 *(5) If the resident is unable to secure a home within four months*
16 *after the transitional personal needs fund has reached the*
17 *maximum amount specified in this subdivision, the fund shall revert*
18 *to the state to defray the costs of the resident's care in the facility.*

19 *(d) In implementing this section, the department shall undertake*
20 *all of the following information and outreach activities:*

21 *(1) Inform residents in all Medi-Cal funded long-term care*
22 *facilities of the existence and availability of the home upkeep*
23 *allowance and the transitional needs personal needs fund.*

24 *(2) Include information on the existence and availability of the*
25 *home upkeep allowance and the transitional personal needs fund*
26 *in the "Notice Regarding Standards for Medi-Cal Eligibility"*
27 *provided for in Section 14006.4.*

28 *(3) Notify all Medi-Cal branches, eligibility workers, long-term*
29 *care facilities, hospital discharge planners, and organizations*
30 *receiving state funds to assist nursing home residents of the*
31 *existence and availability of the home upkeep allowance and the*
32 *transitional personal needs fund.*

33 *(e) The department shall adopt, revise, or repeal regulations*
34 *as necessary to implement this section, including, but not limited*
35 *to, Section 50605 of Title 22 of the California Code of Regulations.*
36 *To the extent Section 50605 of Title 22 of the California Code of*
37 *Regulations is inconsistent with this section, those regulations*
38 *shall be inoperative until the department makes the regulatory*
39 *changes required by this subdivision.*

1 SECTION 1. ~~Section 14005.125 is added to the Welfare and~~
2 ~~Institutions Code, to read:~~

3 ~~14005.125. (a) As authorized under federal Medicaid law, and~~
4 ~~in accordance with subdivisions (b) and (c), a home upkeep~~
5 ~~allowance shall be available to certain long-term care facility~~
6 ~~residents, who will be allowed to use that income to maintain or~~
7 ~~establish a home in which they intend to reside after leaving the~~
8 ~~facility.~~

9 ~~(b) The likelihood of the resident's ability to return to the~~
10 ~~community shall be certified by a physician, pursuant to Section~~
11 ~~50605 of Title 22 of the California Code of Regulations.~~

12 ~~(c) The home upkeep allowance shall be subject to all of the~~
13 ~~following requirements:~~

14 ~~(1) For a resident who intends to leave the facility and return~~
15 ~~to his or her existing home, the allowance shall be available to for~~
16 ~~up to six months while the person resides in the facility. The~~
17 ~~allowance shall be based on the actual minimum cost of~~
18 ~~maintaining the home, such as mortgage or rent, property taxes,~~
19 ~~and required insurance.~~

20 ~~(2) For a resident who intends to leave the facility and establish~~
21 ~~a home, the allowance shall be available for up to three months.~~
22 ~~The allowance shall be used to cover the costs of securing a home,~~
23 ~~such as rent, security and utility deposits, and accessibility~~
24 ~~modifications necessary to meet the needs of the person. The~~
25 ~~allowance shall be subject to all of the following:~~

26 ~~(A) The allowance shall be set aside from the income that~~
27 ~~provides the resident's share of cost for care in the facility.~~

28 ~~(B) The total allowance shall not exceed seven thousand five~~
29 ~~hundred dollars (\$7,500).~~

30 ~~(C) The allowance shall be an exempt resource for purposes of~~
31 ~~determining the value of the resident's assets.~~

32 ~~(D) If the resident is unable secure a home within the time period~~
33 ~~prescribed by this section, the allowance shall revert to the state~~
34 ~~to defray the costs of the resident's care in the facility.~~

35 ~~(d) The department shall take the following information and~~
36 ~~outreach activities with respect to the existence and availability of~~
37 ~~the home upkeep allowance:~~

38 ~~(1) Adopt or revise regulations as necessary to reflect the~~
39 ~~requirements of this section.~~

~~(2) Inform residents in all Medi-Cal funded long-term care facilities of the existence and availability of the home upkeep allowance. The department shall provide information to Medi-Cal funded long-term care facilities, which shall be posted in prominent locations in the facility that are accessible to both the public and to the facility's family council.~~

~~(3) Include information regarding the availability of the home upkeep allowance in the "Notice Regarding Standards for Medi-Cal Eligibility" provided for in Section 14006.4.~~

~~(4) Notify all Medi-Cal branches, eligibility workers, long-term care facilities, hospital discharge planners, and organizations receiving state funds to assist nursing home residents of the new regulatory requirements.~~

~~(5) Ensure that all Medi-Cal patients discharged to a long-term care facility are informed of the existence and availability of the home upkeep allowance.~~

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.